

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MICHAEL L. FOGLE,)
Petitioner,)
v.) No. 4:06-CV-107-AGF
ALAN BLAKE,)
Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court upon the application of Michael L. Fogle for leave to commence this action without payment of the required filing fee. Upon consideration of the financial information provided with the application, the Court finds that petitioner is financially unable to pay the filing fee.

Petitioner, a civilly committed resident of the Missouri Sexual Offender Treatment Center, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner claims that "the Missouri Sexual Offender Act violates United States Constitution issues and is therefore ultimately punitive in nature." He seeks his "immediate release."

At the outset, the Court notes that there is no indication petitioner has previously presented to a Missouri state court his claims regarding the unconstitutionality of Missouri's Sexually Violent Predators Act, Missouri Revised Statute §§ 632.480-.513. In the absence of exceptional circumstances, a petitioner must exhaust currently available and adequate state remedies before invoking federal habeas corpus jurisdiction.

Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484 (1973).

Therefore,

IT IS HEREBY ORDERED that petitioner's motion for leave to proceed in forma pauperis [Doc. #1] is **GRANTED**.

IT IS FURTHER ORDERED that petitioner's petition for a writ of habeas corpus is **DENIED**, without prejudice.

IT IS FURTHER ORDERED that petitioner's motion to appoint counsel [Doc. #4] is **DENIED**, as moot.

An appropriate order shall accompany this memorandum and order.

Dated this 21st day of February, 2006



UNITED STATES DISTRICT JUDGE